



1FW

PATENT  
Customer No. 22,852  
Attorney Docket No. 08059.0013-00

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
CHRISTENSEN et al. )  
Application No.: 10/529,375 ) Group Art Unit: 1651  
Filed: October 28, 2005 )  
For: GRASS ENDOPHYTES ) Examiner: I. Marx  
 )  
 ) Confirmation No.: 4788

**Mail Stop Amendment**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

Sir:

**RESPONSE TO RESTRICTION REQUIREMENT**

In response to the Office Action mailed December 28, 2007, Applicants submit the following remarks. This response is due January 28, 2008, and is timely filed.

According to the Office, pending claims 1-29 are directed to two patentably distinct inventions:

Group I - Claims 1-13 and 26-27, drawn to a various strains of *Neotyphodium coenophialum*.

Group II - Claims 14-25 and 28-29, drawn to a grass infected with strains of *Neotyphodium coenophialum* or a seed thereof.

Office Action, page 2.

Applicants provisionally elect to prosecute Group I, claims 1-13 and 26-27, with traverse.

According to the Office, the Groups do not have unity of invention and do not share a special technical feature that defines a contribution over the prior art. *Id.* at 3. Applicants respectfully submit that the two groups of claims are linked because each group recites specific strains of endophytes selected from the group consisting of AR512, AR513, AR514, AR517, AR521, AR522, AR524, AR525, AR535, and AR539. None of the references cited by the Office teaches any of those strains. Although the two groups differ in that the claims relate to either the strains of endophytes or to grasses infected with those same strains of endophytes, the special technical feature of the specific strains is present in both groups of claims. Accordingly, Applicants respectfully submit that the groups should be examined together.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: January 25, 2008

By: /David W. Hill/  
David W. Hill  
Reg. No. 28,220